

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) PHNL010087	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/082,857	Filed 10/19/2001
		First Named Inventor HUIZER	
		Art Unit 2134	Examiner Aubrey Wyszynski
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		/Larry Liberchuk/	
<input type="checkbox"/>	applicant/inventor.	Signature	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Larry Liberchuk	
<input checked="" type="checkbox"/>	attorney or agent of record Registration number 40,352	914-333-9602	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	03/26/2007	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is guaranteed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.9. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : HUIZER, Cornelis Marinus
Serial No. : 10/082,857
Filed : 10/19/2001
Atty. Docket : PHNL010087
Group Art Unit : 2134
Examiner : Aubrey H. Wyszynski
Conf. No. : 4953

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Commissioner for Patents
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Alexandria, VA 22313-1450

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Claims 1-7 are rejected under 35 U.S.C. §101 because it is alleged that the claims are directed to non-statutory subject matter since the specification indicates that some of the features are typically implemented in software ... and as such, lack a structural relationship ... This rejection is respectfully traversed.

It is respectfully submitted that claims 1 – 7 fall within one of the enumerated categories of 35 U.S.C. §101. The examiner is requested to review the following materials for clarification: In re Warmerdam, 33 F.3d 1354 (Fed. Cir. 1994), In re Lowry, 32 F.3d 1579 (Fed. Cir. 1994), In re Beauregard, 53 F.3d 1583 (Fed. Cir. 1995), and the USPTO Guidelines on the statutory subject matter under 35 U.S.C. §101.

Applicant's claims are directed to a "rendering device" and as such are statutory.

Applicant's claims do not require an underlying memory medium as the elements of the claims may be directed to software, but do not require it. It is respectfully submitted that it is improper to read descriptions of illustrative embodiments into the claims as limitations. The language of the specification including "are typically" is in fact permissive language in that it describes a situation wherein the elements may be implemented in software. Contrary to the examiner's assertions, the elements do not require an "underlying medium". A person of ordinary skill in the art would readily appreciate that a receiving module 111, for example, may be implemented in software, hardware, or combinations thereof, and accordingly, the elements of the claims should be understood as such. It is respectfully submitted that claims 1 – 7 are in proper form and an indication to that effect is respectfully requested.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

By /Larry Liberchuk/
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March 27, 2007